IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

TESTAMENTARY PETITION NO.348 OF 2004

Philip S. Castelino ...Petitioner

v/s

The Manager, Bank of India

and ors. ...Respondents

Mr Kode with Ms Priya N. for Petitioner.

Mr R. D'Mello for Respondent No.3.

CORAM : D.K. DESHMUKH J.

DATE : 10TH NOVEMBER 2006.

P.C. :-

1. This is a petition for succession certificate. The only objection is filed by Mrs Maria Helen Mascarenhas. All other heirs have given their consent. Her objection is that in one of the bank account, she is a nominee. In the rejoinder, the petitioner has denied that she is a nominee. She has not produced the document by which she is nominated. The learned counsel appearing for Mrs Maria relies on two orders passed by this Court in this petition, one in chamber summons No.97 of 2003 dated 11th September 2003 and the other in notice of motion No.2899 of 2002 dated 25th September 2003. Perusal of both the orders shows that this Court has nowhere recorded the conclusion that the objector is a nominee in respect of the bank account. If the objector wanted this Court not to grant succession certificate on the ground that she is the nominee, onus was entirely on her to produce the document of her nomination. In the absence of such a document, the objection cannot be sustained. Petition is therefore granted in terms of the prayer clause of the petition.

2. At this stage, a request is made for stay of the operation of this order. The request is rejected.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.